

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WANDA MUNOZ, individually and as next friend
to minor child C.B.,

Plaintiff,

-against-

17-cv-9583 (LAK)

THE CITY OF NEW YORK, et al.,

Defendants.
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MEMORANDUM AND ORDER

LEWIS A. KAPLAN, *District Judge*.

Both sides have filed motions *in limine*. They are disposed of as follows:

Plaintiff's Motion (Dkt 168)

The motion is granted with respect to items 1 through 3 and so much of item 4 as applies to defendants Henry and Pierce and former defendant Wroten. It is denied as to item 4 as it applies to the other named individuals without prejudice to reconsideration at trial. Finally, it is denied as to item 5.

Assuming the evidence is sufficient to do so, the Court will submit to the jury that tries liability and compensatory damages special verdict questions as to whether the jury finds that the legal prerequisites for an award of punitive damages have been proved and, if so, whether it will award such damages. In the event the answers to both questions are in the affirmative, there will be a brief additional trial before the same jury to determine the amount of punitive damages to be awarded.

Defendants' Motion (Dkt 164)

The motion is granted with respect to Points I through IV. Assuming *arguendo* that state law claims against the City on a *respondeat superior* claim remain, there is no suggestion that there is any factual issue as to whether the remaining defendants were City employees or were acting within the scope of their employment. Accordingly, on that assumption, any mention of the City would serve only to imply that the defendants would be indemnified in the event of a plaintiff recovery. That would be unduly and unfairly prejudicial to them without serving any proper purpose.

The motion is denied with respect to Point V without prejudice to a motion for dismissal of the punitive damages claim at the conclusion of the plaintiff's case.

SO ORDERED.

Dated: May 2, 2022

/s/ Lewis A. Kaplan

Lewis A. Kaplan
United States District Judge

